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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,825	12/28/2000	John Alson Hicks III	00216	5201
38516 7590 02/03/2009 AT&T Legal Department - SZ Attn: Patent Docketing Room 2A-207 One AT&T Way Bedminster, NJ 07921				
EXAMINER				
SALTARELLI, DOMINIC D				
ART UNIT		PAPER NUMBER		
2421				
MAIL DATE		DELIVERY MODE		
02/03/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/749,825

**Applicant(s)**

HICKS ET AL.

**Examiner**

DOMINIC D. SALTARELLI

**Art Unit**

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 5-14, 36 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5-14, 36 and 39-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 18, 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 5-14, 36, and 39-46 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claim 1 first describes a system wherein the tuners and demodulators are coupled to a different switch port of the data switch to send the information signals to the data switch (claim 1, lines 15-19), but then states the tuners and demodulators share the system bus to communicate information to a third switch port of the data switch (claim 1, lines 20-23), mixing mutually distinct embodiments from the specification (see page 6 line 21 - page 7 line 2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, 6, 36, 40, 41, and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman (6,005,861, of record) in view of Eames et al. (6,493,875, listed on the IDS filed 7/30/07) [Eames] and Russo (6,732,366, of record).

Regarding claims 1 and 36, Humpleman discloses a system for providing digital entertainment data, the system comprising:

multiple tuners and demodulators sending information signals to a media bus (network interface units 32, col. 9, lines 44-64, outputting to internal network 34, shown in fig. 1);

a data switch connected to the bus, the data switch receiving the information signals and sending the information signals to a plurality of switch

ports (switch hub 38, shown in fig. 2, which comprises crossbar switch 44 which provides the switch ports that connect the devices, col. 5, lines 26-44);

each of the multiple tuners and demultiplexers selecting a respective content item from a plurality of content items (the tuning and demultiplexing operation which selects a particular program from a received stream, col. 9, lines 44-64)

the tuners and demodulators coupled the data switch via the bus sending the information signals to another switch port of the plurality of switch ports of the data switch (the port connections are established based on solely on source/destination pairs, col. 5, lines 26-44); and

the bus is coupled to a third switch port of the data switch, the bus being shared amongst the multiple tuners and demodulators, wherein the multiple tuners and demodulators each share the system data bus to communication information to the third switch port (again, the port connections are established based on source/destination pairs, col. 5, lines 26-44, and are dynamically reallocated based on how the system is used, for example, if a user watching television changed channels such that the input to the TV switched from a first source to a second source, the sources [tuners] would share that port connecting them to the TV).

Humpleman fails to disclose a memory stores a browser based graphical user interface and content items, a system data bus connected to the media bus and receiving the information signals, a network bus connected to the system

data bus and receiving the information signals, and a mass storage device connected to the system data bus and storing the information signals, and a processor receiving an instruction from a client device to retrieve the graphical user interface from the memory, the processor sending the graphical user interface to the client device with the graphical user interface describing the content items stored in the memory, the processor receiving a command from the client device issued by a remote control, and the processor retrieving another instruction from the memory that is associated with the command issued by the remote control.

In an analogous art, Eames discloses a system for providing digital entertainment data (fig. 3), and teaches that it is well known to utilize several interconnected buses to route information within a gateway (col. 5, lines 26-36). Designation of the buses within the system is a largely arbitrary practice, since interconnected buses can be considered a single bus or a collection of buses equally well. Eames simply names buses according to the type of data which they transport.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Humpleman to include plural interconnected buses as taught by Eames. While Humpleman clearly inherently includes a bus to transport data from the network interface units to the hub, Eames is evidence that it is obvious to designate plural interconnected buses for the transport of data. Whether the buses in question are physically distinct and

indirectly coupled or only separate in the abstract sense cannot be determined, as the claimed media bus, system data bus, and network bus are disclosed in a sufficiently vague manner to include both possibilities (see fig. 6 of the originally filed disclosure). Either case is obvious and well known in view of the prior art, as the sole purpose of a bus is simply to transport data between circuits.

Humpleman and Eames fail to disclose a memory stores a browser based graphical user interface and content items, a mass storage device coupled to the system data bus and storing the information signals, and a processor receiving an instruction from a client device to retrieve the graphical user interface from the memory, the processor sending the graphical user interface to the client device with the graphical user interface describing the content items stored in the memory, the processor receiving a command from the client device issued by a remote control, and the processor retrieving another instruction from the memory that is associated with the command issued by the remote control.

In an analogous art, Russo discloses a system for providing digital entertainment data (fig. 2) including a mass storage device coupled to a system data bus and storing information signals (fig. 2, storage 110, col. 7, lines 36-50), providing the benefit of stored programming for later playback (col. 3, lines 9-21). Further, Russo discloses storing in memory a browser based graphical user interface, which upon instruction from the client device, a processor sends the graphical user interface to the client device with the graphical user interface describing the content items stored in the memory, the processor receiving a

command from the client device issued by a remote control, and the processor retrieving another instruction from the memory that is associated with the command issued by the remote control (the system provides a browser based user interface which provides information regarding program usage indicators and other descriptive data, granting access to stored and otherwise available programming, col. 5 line 59 - col. 6 line 9 and col. 10 line 59 - col. 11 line 15).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Humpleman and Eames to include a mass storage device coupled to the system data bus and storing the information signals and a browser based graphical user interface, the processor sending the graphical user interface to the client device with the graphical user interface describing the content items stored in the memory, the processor receiving a command from the client device issued by a remote control, and the processor retrieving another instruction from the memory that is associated with the command issued by the remote control, as taught by Russo, for the benefit of stored programming for later playback and a convenient and intuitive means for accessing said programming by a user.

Regarding claims 5, 6, 40, and 41, Humpleman, Eames, and Russo disclose the system and method of claims 1 and 36, wherein the mass storage device stores an item identifier corresponding to each stored content item, the item identifier having a value that indicates the content item has been played (for



pay-per-play usage, Russo, col. 5, lines 12-21), another value indicated the content items has been purchased (for open ended usage, Russo, col. 5, lines 45-58), a third value indicating the content item has been licensed (available for viewing, Russo, col. 5 line 59 - col. 6 line 9), a cost of playback for each content item (to debit the account for pay-per-play usage, Russo, col. 10, lines 33-34) and a second cost of purchase for each content item (to debit the account for open ended usage, Russo, col. 10, lines 33-34). The examiner recognizes that the pay-per-play and open ended, or 'rental' paradigm, uses are disclosed as alternative embodiments in Russo, however, they are not mutually exclusive and therefore both included when Humpleman and Eames are modified in view of Russo's disclosure to include the mass storage device.

Regarding claim 44, Humpleman, Eames, and Russo disclose the method of claim 36, further comprising a plurality of broadband data communication links, each broadband data communication link coupled to a respective switch port of the data switch (the outputs of the crossbar switch shown in fig. 3 of Humpleman, see col. 3, lines 49-55, wherein the switch ports are a plurality of 100Base-T Ethernet switch ports, col. 3, lines 49-55, making the switch an Ethernet switch), and a plurality of digital set top boxes, each digital set top box coupled to a respective broadband data communication link (Humpleman, col. 4 line 66 - col. 5 line 19).

Regarding claim 45, Humpleman, Eames, and Russo disclose the method of claim 36, wherein the data switch is a router (Humpleman, col. 6, lines 45-49).

Regarding claim 46, Humpleman, Eames, and Russo disclose the method of claim 36, wherein the broadband data communication links are category 5 cables (Humpleman, col. 4, lines 48-51).

7. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman, Eames, and Russo as applied to claim 36 above, and further in view of Meyer et al. (4,809,069, of record) [Meyer].

Regarding claim 39, Humpleman, Eames, and Russo disclose the method of claim 36, but fail to disclose an overlay processor connected between the system data bus and the media bus, the overlay processor being coupled to a fourth port of the data switch, the overlay processor superimposing multiple information signals onto a first information signal.

In an analogous art, Meyer discloses a system for providing digital entertainment data that includes an overlay processor superimposing multiple information signals onto a first information signal (fig. 1a, PIP processor 50, col. 1, lines 19-27), providing the benefit of allowing a user to view several sources of video on a screen simultaneously.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Humpleman, Eames, and Russo to include

an overlay processor superimposing multiple information signals onto a first information signal, as taught by Meyer, for the benefit of allowing a user to view several sources of video on a screen simultaneously. The location of this processor is between the system bus and the media bus, as the multiple sources of information signals originates from the media bus (as this is where the output of the NIUs is first available), and are output to the system bus for transport onwards to the data switch, the overlay processor being coupled to a fourth port of the data switch for providing it's output to a requesting user device.

8. Claims 7 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman, Eames, and Russo as applied to claims 1 and 36 above, and further in view of Zhu et al. (5,768,527, of record) [Zhu].

Regarding claims 7 and 42, Humpleman, Eames, and Russo disclose the system and method of claims 1 and 36, wherein a broadband data port couples to the data switch to a receive a content item from a broadband data service provider (Humpleman, col. 3, lines 21-35), but fail to disclose the content item is downloaded and stored on the mass storage device at a data rate that is less than a playback rate in bytes per second, and the system monitoring when a remaining amount of time required to complete the download is less than a playback time of the content item, such that the system may indicate that the content item is available for playback.

In an analogous art, Zhu teaches a system for providing digital entertainment data (fig. 5, col. 10, lines 17-38), wherein content items are downloaded and stored at a data rate that is less than a playback rate in bytes per second (the rate scaler reduces the download rate to a value less than the original playback rate, from  $R_i$  to  $R'_i$  to accommodate for the limited bandwidth that has been determined to be available for transmitting content), and the system monitoring when a remaining amount of time required to complete the download is less than a playback time of the content item, such that the system may indicate that the content item is available for playback (there is an inevitable delay involved where an amount of data must first be buffered such that the user will not experience interruptions in playback while the rest of the content is downloaded at the slower than playback rate, col. 4, lines 4-14 and 42-48). This provides the benefit of allowing a viewer to receive and playback content items over low bandwidth connections (col. 8, lines 25-40) without having to wait for the entire file to be downloaded first (col. 4, lines 42-48).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system and method disclosed by Humpleman, Eames, and Russo to include the content item is downloaded and stored [on the mass storage device] at a data rate that is less than a playback rate in bytes per second, and the system monitoring when a remaining amount of time required to complete the download is less than a playback time of the content item, such that the system may indicate that the content item is available for playback, as taught

by Zhu, for the benefit of allowing a viewer to receive and playback content items over low bandwidth connections without having to wait for the entire file to be downloaded first.

9. Claims 8-14 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman, Eames, and Russo as applied to claims 1 and 36 above, and further in view of Tsukagoshi (6,104,861, of record) and Halliwell et al. (5,473,772, of record) [Halliwell].

Regarding claims 8 and 43, Humpleman, Eames, and Russo disclose the system and method of claim 1 and 36, wherein a broadband data port couples to the data switch to receive a content item from a broadband data service provider (Humpleman, col. 3, lines 21-35), the content item communicated from the data switch for storage at the mass storage device (Russo, fig. 2, storage 110), but fail to disclose the content item comprises a content item storage position identifier specifying a logical storage position in the mass storage device, and when new content items are downloaded and stored, a new content item storage position identifier is also downloaded for the content item already stored on the mass storage device.

In an analogous art, Tsukagoshi teaches a system for providing digital entertainment data comprising generating content item storage position identifiers specifying a logical storage position in a mass storage device which are downloaded to the storage device along with the content (the data stream

addresses regarding their position on the disk, col. 14 line 45 - col. 15 line 23), providing the benefit of indexed content which is easily searchable by a user (col. 15, lines 24-45).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system and method disclosed by Humpleman, Eames, and Russo to include generating content item storage position identifiers specifying a logical storage position in a mass storage device which are downloaded to the storage device along with the content (the data stream addresses regarding their position on the disk, as taught by Tsukagoshi, providing the benefit of indexed content which is easily searchable by a user.

Humpleman, Eames, Russo, and Tsukagoshi fail to disclose when new content items are downloaded and stored, a new content item storage position identifier is also downloaded for the content item already stored on the mass storage device.

In an analogous art, Halliwell discloses a system for providing digital data comprising a mass storage device, wherein new content item storage position identifier are downloaded for content item already stored on the mass storage device when new content items are downloaded (the new position identifier is a delete command to remove the old content item to make room for the new content items, col. 7, lines 43-52).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system and method disclosed by Humpleman, Eames, Russo,

and Tsukagoshi to include a new content item storage position identifier is also downloaded for the content item already stored on the mass storage device, as taught by Halliwell, for the benefit of improved automatic maintenance of the limited amount of storage space available on a mass storage device, automatically deleting old content items when necessary to make room for the new content items.

Regarding claim 9, Humpleman, Eames, Russo, Tsukagoshi, and Halliwell disclose the system of claim 8, further comprising a first multimedia input, the first multimedia input coupled to the multiple tuners, wherein the first multimedia input is to receive a plurality of transmission signals (Humpleman, col. 3, lines 36-43, wherein the number of NIUs [the tuners] is determined by the number of streams that are simultaneously required from the available sources, wherein the multimedia input is a multiplex of broadcast signals carried by a coaxial cable, col. 3, lines 21-35).

Regarding claims 10-14, Humpleman, Eames, Russo, Tsukagoshi, and Halliwell disclose the system of claim 9, wherein the plurality of transmission signals include a plurality of television program signals (digital or mixed analog/digital broadcast signals), an audio signal (compressed audio), a data signal (Internet data), are received from a cable headend or direct broadcast satellite (cable provider or digital satellite service), and are frequency divided

multiplex transmission signals (as is conventional for cable and satellite television broadcast services, Humpleman, col. 3, lines 21-35).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dominic D Saltarelli/  
Examiner, Art Unit 2421